

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JOEL CORDERO FLORES,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:24-cv-00561-KES-BAM

FINDINGS AND RECOMMENDATIONS  
REGARDING PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

(Docs. 16, 20)

**Findings and Recommendations**

**INTRODUCTION**

Plaintiff Joel Cordero Flores (“Plaintiff”) seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his applications for disability insurance benefits under Title II of the Social Security Act and for supplemental security income under Title XVI of the Social Security Act. The matter is currently before the Court on the parties’ briefs, which were submitted without oral argument, to Magistrate Judge Barbara A. McAuliffe for the issuance of findings and recommendations.

Having considered the briefing and record in this matter, the Court finds that the decision of the Administrative Law Judge (“ALJ”) is not supported by substantial evidence as a whole and is not based upon proper legal standards. Accordingly, it will be recommended that Plaintiff’s motion for summary judgment or remand be granted, the Commissioner’s request to affirm the

1 agency's determination to deny benefits be denied, and that judgment be entered in favor of  
2 Plaintiff Joel Cordero Flores.

3 **FACTS AND PRIOR PROCEEDINGS**

4 Plaintiff filed applications for disability insurance benefits and supplemental security  
5 income in 2019. AR 193-99, 204-10. Plaintiff alleged he became disabled on August 6, 2018,  
6 due to a liver condition, back pain, left eye problems, and rheumatoid arthritis in left hand. AR  
7 246. Plaintiff's applications were denied initially and on reconsideration. AR 82-86, 90-94.  
8 Subsequently, Plaintiff requested a hearing before an ALJ, and following a hearing, ALJ James  
9 D. Wascher issued an order denying benefits on November 30, 2020. AR 13-28, 34-59.  
10 Thereafter, Plaintiff sought review of the decision, which the Appeals Council denied. AR 1-5.  
11 Plaintiff appealed.

12 On January 6, 2022, following the parties' stipulation, the Court remanded the matter for  
13 further administrative action. AR 595-96. Based on the Court's order, the Appeals Council  
14 remanded the matter to an ALJ with instructions. AR 601-03. Following a hearing, ALJ Nancy  
15 M. Stewart issued an order denying benefits on July 5, 2023.<sup>1</sup> AR 497-513, 521-51. Thereafter,  
16 Plaintiff sought review of the decision, which the Appeals Council denied, making the ALJ's  
17 decision the Commissioner's final decision. AR 490-95. This appeal followed.

18 **Relevant Hearing Testimony and Medical Record**

19 The relevant hearing testimony and medical record were reviewed by the Court and will  
20 be referenced below as necessary to this Court's decision.

21 **The ALJ's Decision**

22 On July 5, 2023, using the Social Security Administration's five-step sequential  
23 evaluation process, the ALJ determined that Plaintiff was not disabled under the Social Security  
24 Act. AR 503-13. Specifically, the ALJ found that Plaintiff had not engaged in substantial gainful

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26 <sup>1</sup> Plaintiff filed a subsequent claim for Title II and Title XVI benefits on July 27, 2021. The state  
27 agency found Plaintiff disabled as of December 1, 2020. AR 504. ALJ Stewart dismissed  
28 Plaintiff's request for hearing as it related to the period on or after December 1, 2020, and  
indicated that consideration of Plaintiff's claims was limited to the period ending November 30,  
2020. AR 504.

1 activity since August 6, 2018, the alleged onset date. AR 506. The ALJ identified the following  
2 severe impairments: left eye blindness secondary to glaucoma, disorder of the spine, hepatitis C,  
3 and liver cirrhosis. AR 506. The ALJ determined that Plaintiff did not have an impairment or  
4 combination of impairments that met or medically equaled any of the listed impairments. AR  
5 507. Based on a review of the entire record, the ALJ found that Plaintiff retained the residual  
6 functional capacity (“RFC”) to perform light work, except for the following restrictions: He  
7 could lift and carry no more than 20 pounds occasionally and 10 pounds frequently. He could  
8 push and pull within those weight limits, but could not climb ladders, ropes, and scaffolds. He  
9 could stand or walk for 6 hours in an 8-hour workday and had no sitting limitations with normal  
10 breaks and lunch periods of 10 to 15 minutes every 2 hours. He could occasionally climb ramps  
11 and stairs and could frequently stoop, kneel, crouch, and crawl. He had monocular vision and due  
12 to his problems with depth perception could not work at unprotected heights or around fast  
13 moving dangerous mechanical parts or machinery. He should not drive commercial vehicles or  
14 do work that requires work on slippery or uneven terrain. He could read small print, ordinary  
15 newsprint, “book, print,” read a computer screen, and could determine the difference in shape and  
16 color of small objects. AR 507-11. With this RFC, the ALJ determined that Plaintiff was unable  
17 to perform any past relevant work, but there were other jobs that existed in the national economy  
18 that Plaintiff could perform, such as marker, routing clerk, and router. AR 511-13. The ALJ  
19 therefore concluded that Plaintiff had not been under a disability from August 6, 2018, through  
20 the date of the decision. AR 513.

#### SCOPE OF REVIEW

22 Congress has provided a limited scope of judicial review of the Commissioner’s decision  
23 to deny benefits under the Act. In reviewing findings of fact with respect to such determinations,  
24 this Court must determine whether the decision of the Commissioner is supported by substantial  
25 evidence. 42 U.S.C. § 405(g). Substantial evidence means “more than a mere scintilla,”  
26 *Richardson v. Perales*, 402 U.S. 389, 402 (1971), but less than a preponderance. *Sorenson v.*  
27 *Weinberger*, 514 F.2d 1112, 1119, n. 10 (9th Cir. 1975). It is “such relevant evidence as a  
28 reasonable mind might accept as adequate to support a conclusion.” *Richardson*, 402 U.S. at 401.

1 The record as a whole must be considered, weighing both the evidence that supports and the  
2 evidence that detracts from the Commissioner's conclusion. *Jones v. Heckler*, 760 F.2d 993, 995  
3 (9th Cir. 1985). In weighing the evidence and making findings, the Commissioner must apply the  
4 proper legal standards. *E.g., Burkhart v. Bowen*, 856 F.2d 1335, 1338 (9th Cir. 1988). This  
5 Court must uphold the Commissioner's determination that the claimant is not disabled if the  
6 Commissioner applied the proper legal standards, and if the Commissioner's findings are  
7 supported by substantial evidence. *See Sanchez v. Sec'y of Health and Human Servs.*, 812 F.2d  
8 509, 510 (9th Cir. 1987).

## **REVIEW**

In order to qualify for benefits, a claimant must establish that he or she is unable to engage in substantial gainful activity due to a medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than twelve months. 42 U.S.C. § 1382c(a)(3)(A). A claimant must show that he or she has a physical or mental impairment of such severity that he or she is not only unable to do his or her previous work, but cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. *Quang Van Han v. Bowen*, 882 F.2d 1453, 1456 (9th Cir. 1989). The burden is on the claimant to establish disability. *Terry v. Sullivan*, 903 F.2d 1273, 1275 (9th Cir. 1990).

## **DISCUSSION<sup>2</sup>**

Plaintiff argues that: (1) the ALJ's RFC determination is unsupported by substantial evidence as she failed to comport with the remand order and properly assess Plaintiff's visual limitations and the medical opinions regarding his limitations; and (2) the ALJ failed to include work-related limitations in the RFC consistent with the nature and intensity of Plaintiff's limitations, and failed to offer any reason for rejecting Plaintiff's subjective complaints. (Doc. 16 at 3.)

26       <sup>2</sup> The parties are advised that this Court has carefully reviewed and considered all of the briefs,  
27       including arguments, points and authorities, declarations, and/or exhibits. Any omission of a  
28       reference to any specific argument or brief is not to be construed that the Court did not consider  
the argument or brief.

1           **A.       Evaluation of Visual Limitations**

2           Plaintiff argues that the ALJ failed to properly assess the opinions of the state agency  
3 medical consultants and their opinions regarding Plaintiff's visual impairment. (Doc. 16 at 5.)

4           Because Plaintiff applied for benefits after March 27, 2017, his claim is governed by the  
5 agency's newer regulations concerning how an ALJ must evaluate medical opinions. 20 C.F.R.  
6 §§ 404.1520c, 416.920c. Under these regulations, the Commissioner does "not defer or give any  
7 specific evidentiary weight, including controlling weight, to any medical opinion(s) or prior  
8 administrative medical finding(s), including those from [a claimant's] medical sources." 20  
9 C.F.R. §§ 404.1520c(a), 416.920c(a). The Commissioner evaluates the persuasiveness of the  
10 medical opinions based on the following factors: (1) supportability; (2) consistency; (3)  
11 relationship with the claimant; (4) specialization; and (5) other factors, such as "evidence  
12 showing a medical source has familiarity with the other evidence in the claim or an understanding  
13 of our disability program's policies and evidentiary requirements." 20 C.F.R. §§  
14 404.1520c(c)(3)(1)-(5), 416.920c(c)(3)(1)-(5). Supportability and consistency are the most  
15 important factors. 20 C.F.R. §§ 404.1520c(b)(2), 416.920c(b)(2). Supportability means the extent  
16 to which a medical source supports the medical opinion by explaining the "relevant ... objective  
17 medical evidence." 20 C.F.R. §§ 404.1520c(c)(1), 416.920c(c)(1); *see also Woods v. Kijakazi*, 32  
18 F.4th 785, 792 (9th Cir. 2022). Consistency means the extent to which a medical opinion is  
19 "consistent ... with the evidence from other medical sources and nonmedical sources in the  
20 claim." 20 C.F.R. §§ 404.1520c(c)(2), 416.920c(c)(2); *Woods*, 32 F.4th at 792.

21           The Ninth Circuit has clarified that "under the new regulations, an ALJ cannot reject an  
22 examining or treating doctor's opinion as unsupported or inconsistent without providing an  
23 explanation supported by substantial evidence." *Id.* at 792. "The agency must 'articulate ... how  
24 persuasive' it finds 'all of the medical opinions' from each doctor or other source, 20 C.F.R. §  
25 404.1520c(b), and 'explain how [it] considered the supportability and consistency factors' in  
26 reaching these findings, *id.* § 404.1520c(b)(2)." *Id.*; *see also* 20 C.F.R. § 416.920c(b).

1       Prior Administrative Medical Findings<sup>3</sup>

2           Upon initial review, Dr. Robert Friedman, the state agency medical consultant, found that  
3 Plaintiff could lift and/or carry 50 pounds occasionally, 25 pounds frequently, could stand and/or  
4 walk about 6 hours in an 8-hour workday, could sit about 6 hours in an 8-hour workday, could  
5 never climb ramps, stairs, ladders, ropes, or scaffolds, could frequently balance, stoop, kneel,  
6 crouch, and crawl, and did not have any manipulative, visual, communicative, or environmental  
7 limitations. AR 65-66.

8           On reconsideration, Dr. P. Frye similarly opined that Plaintiff could lift and/or carry 50  
9 pounds occasionally, 25 pounds frequently, could stand and/or walk about 6 hours in an 8-hour  
10 workday, could sit about 6 hours in an 8-hour workday, could never climb ramps, stairs, ladders,  
11 ropes, or scaffolds, could frequently balance, stoop, kneel, crouch, and crawl, and did not have  
12 any manipulative, communicative, or environmental limitations. AR 76-78. However, Dr. Frye  
13 additionally opined that Plaintiff had visual limitations with limited near and far acuity on the left,  
14 limited depth perception on the left, limited color vision on the left, and limited field of vision on  
15 the left. AR 77.

16          In evaluating these findings, the ALJ reasoned as follows:

17          I did not find persuasive . . . the opinions of the state agency medical consultants,  
18 who indicated that the claimant could perform work at the less than medium  
19 exertional level due to multiple exertional postural, visual, and environmental  
20 limitations (Ex. 1A/7-9; 3A/7-9). The state agency medical consultants did not  
21 examine the claimant, and so did not benefit from first-hand knowledge and  
experience with his condition. They also did not have access to the additional  
22 medical evidence and testimony available at the hearing level. As a result, they  
overestimated his functional abilities, especially about his exertional abilities. A  
23 detailed assessment of the claimant's condition explaining how they came to the  
identified limitations and citing medical evidence in support of their conclusions  
24 does not accompany their opinion. In addition, their opinion fails to account for  
the impact of the claimant's treatment for hepatitis C and liver cirrhosis during the  
period in question, or for his complaints of abdominal pain related to this  
condition . . . . As a result, I did not incorporate the opinions of the state agency  
medical consultants into the above residual functional capacity.

25          AR 510.

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27          <sup>3</sup> Prior administrative medical findings are findings made by State agency medical consultants  
28 and psychological consultants at a prior level of review based on their review of the evidence in  
the record. 20 C.F.R. §§ 404.1513(a)(5), 416.913(a)(5).

1        In this case, the Appeals Council directed the ALJ to reevaluate the prior administrative  
2 findings and the claimant's visual limitations, noting that the prior decision did not adequately  
3 address prior administrative findings from Dr. Frye concerning Plaintiff vision in the left eye. AR  
4 601-02. While acknowledging that the ALJ reevaluated Dr. Frye's opinion in the new decision,  
5 Plaintiff argues the ALJ failed to properly address the opined visual limitations, and her failure to  
6 do so was erroneous. (Doc. 16 at 5-6.)

7        The Commissioner counters that the ALJ addressed Plaintiff's visual limitations and  
8 generally found Dr. Frye's findings to be unpersuasive under the supportability and consistency  
9 factors. Because the ALJ found Dr. Frye's prior administrative medical findings unpersuasive,  
10 the Commissioner contends that the ALJ was not required to incorporate the limits therein into  
11 the RFC. (Doc. 20 at 6.)

12       The Court finds that the ALJ did not properly evaluate Dr. Frye's visual limitations under  
13 the consistency and supportability factors in the regulations. When considering the supportability  
14 factor, the ALJ should consider the extent to which a medical source supports his or her own  
15 opinion and explains the relevant objective medical evidence. *Beltran v. Kijakazi*, No. 1:21-cv-  
16 0603 JLT BAM, 2023 WL 6164105, at \*4 (E.D. Cal. Sept. 21, 2023) (citing 20 C.F.R. §  
17 416.920c(c)(1)); *see also* 20 C.F.R. § 404.1520c(c)(1). The ALJ here noted that the state agency  
18 consultants did not examine Plaintiff and did not provide “[a] detailed assessment of the  
19 claimant's condition explaining how they came to the identified limitations and citing medical  
20 evidence in support of their conclusions does not accompany their opinion.” AR 510. However,  
21 the ALJ did not acknowledge that Dr. Frye's opinion regarding Plaintiff's visual limitations cited  
22 an assessment of “OS glaucoma w/ VA loss but adequate ID vision.” AR 74. Further, the ALJ  
23 did not acknowledge that in rating Plaintiff's visual limitations, Dr. Frye explained that they were  
24 based on “OS LP due to glaucoma.” AR 77. Therefore, the Court finds that the ALJ failed to  
25 properly address the supportability factor with respect to the opined visual limitations.

26       Furthermore, the ALJ did not clearly address the consistency factor, which requires the  
27 ALJ to explain the extent to which the limitations identified by Dr. Frye are inconsistent with  
28 other evidence in the record, including the opinions from other medical sources and nonmedical

1 evidence. *Beltran*, 2023 WL 616405, at \*5 (explaining that consistency factor “requires the ALJ  
2 to explain the extent to which the limitations identified by [the medical source] are inconsistent  
3 with other evidence in the record, including the opinions from other medical sources and  
4 nonmedical evidence”). Although the ALJ did note the state agency consultants “did not have  
5 access to the additional medical evidence and testimony available at the hearing level,” (AR 510),  
6 the ALJ did not specify the additional evidence or testimony determined to be inconsistent with  
7 Dr. Frye’s assessed visual limitations. Indeed, the ALJ’s evaluation primarily considered  
8 Plaintiff’s exertional limitations, noting that the state agency physicians “overestimated his  
9 functional abilities, especially about his exertional abilities,” and failed “to account for the impact  
10 of the claimant’s treatment for hepatitis C and liver cirrhosis during the period in question, or for  
11 his complaints of abdominal pain related to this condition.” AR 510. Consequently, the Court is  
12 unable to find that the ALJ properly discussed the consistency factor, particularly with respect to  
13 the opined visual limitations.

14 The Commissioner contends that a plain reading of the record demonstrates that the ALJ  
15 nevertheless accepted the visual limitations in Dr. Frye’s prior administrative medical findings.  
16 (Doc. 20 at 6.) To that end, the Commissioner argues the ALJ accepted Dr. Frye’s limitations in  
17 the left eye in near and far acuity, depth perception, color vision, and field of vision, “by  
18 incorporating Plaintiff’s monocular vision and resulting depth perception problems into the  
19 RFC.” (*Id.*) The Commissioner cites the ALJ’s explanation that due to Plaintiff’s depth  
20 perception issues, he could not work at unprotected heights or around fast moving dangerous  
21 mechanical parts or machinery, and he also was prohibited from driving commercial vehicles or  
22 doing work that required work on slippery or uneven terrain. (*Id.*, citing AR 508.)

23 Even accepting that the ALJ adequately incorporated Dr. Frye’s limitation in depth  
24 perception, it is unclear how the RFC accounted for Dr. Frye’s limitations in near and far acuity,  
25 color vision, and field of vision. The ALJ included in the RFC that Plaintiff “could read small  
26 print, ordinary newsprint, book, print, read a computer screen, and can determine the differences  
27 in shape and color of small objects.” AR 508. However, this RFC does not appear consistent  
28 with the above identified limitations in left eye near and far acuity, color vision, and field of

1 vision, and the ALJ did not provide an explanation as to how she determined Plaintiff retained the  
2 visual capacity to read small print, ordinary newsprint, book, print, read a computer screen, or  
3 determine the differences in shape and color of small objects.

4 The Commissioner argues that “the ALJ’s finding that Plaintiff could read small print,  
5 ordinary newsprint, book, print, and computer screen, and determine the differences in shape and  
6 color of small objects, was derived from Dr. Stoltz’s medical opinion (AR 844).” (Doc. 20 at 7.)  
7 This argument is not persuasive for two main reasons. First, the ALJ did not discuss any of Dr.  
8 Stoltz’s findings regarding Plaintiff’s vision. AR 510. Indeed, with respect to visual limitations,  
9 the ALJ merely acknowledged Dr. Stoltz’s opinion that Plaintiff “was essentially limited to work  
10 at the less than medium exertional level due to multiple exertional postural, visual, and  
11 environmental limitations.” *Id.* Second, and critically, the ALJ expressly “did not incorporate Dr.  
12 Stoltz’s assessment into the above residual functional capacity.” *Id.*

13 The Commissioner additionally argues that these RFC limitations were supported by the  
14 record, noting that Plaintiff could not see his fingers on the left side by July 2020, but during the  
15 relevant period, he possessed between 20/40 and 20/70 vision on the right side, which was  
16 corrected to 20/20 vision.” (Doc. 20 at 7-8.) However, it is unclear how these findings support  
17 the visual RFC. Although the ALJ did state that the visual and environmental limitations in the  
18 RFC adequately accommodated the limitations caused by Plaintiff’s left eye blindness secondary  
19 to glaucoma, the ALJ did not explain how the vision findings in the right eye supported an RFC  
20 for reading small print, ordinary newsprint, book, print, and computer screen, and determining the  
21 differences in shape and color of small objects given the limits with left near and far acuity, color  
22 vision, and field of vision.

23 Based on the above, the Court finds that the ALJ failed to properly assess the prior  
24 administrative medical findings regarding Plaintiff’s visual limitations and the ALJ’s RFC’s  
25 determination regarding his visual limitations is not supported by substantial evidence. The Court  
26 cannot conclude that this error is harmless. *See Tomasetti v. Astrue*, 533 F.3d 1035, 1038 (9th  
27 Cir. 2008) (explaining “harmless error, . . . exists when it is clear from the record that the ALJ’s  
28 error was inconsequential to the ultimate nondisability determination”) (internal quotation marks

1 and citation omitted). The ALJ relied on the vocational expert's testimony that Plaintiff could  
2 perform other jobs in the national economy, but the only visual limitations in the hypotheticals  
3 considered by the vocational expert were those for depth perception. *See AR 512, 545.* Further,  
4 the jobs of marker, routing clerk, and router identified by the vocational expert at step five of the  
5 sequential evaluation involve, at a minimum, near acuity frequently. AR 512; *see Marker,*  
6 DICOT 209.587-034, 1991 WL 671802; *Routing Clerk, DICOT 222.687-022, 1991 WL 672133;*  
7 *Router, DICOT, 222.587.038, 1991 WL 672123.*

8           **B. Remedy**

9           Given the identified error, the Court must decide the appropriate remedy. The decision  
10 whether to remand for further proceedings or order an immediate award of benefits is within the  
11 Court's discretion. *See Harman v. Apfel*, 211 F.3d 1172, 1175-78 (9th Cir. 2000). Unless "the  
12 record has been fully developed and further administrative proceedings would serve no useful  
13 purpose," remand for further proceedings is warranted. *Garrison*, 759 F.3d at 1020. Here, the  
14 record is not fully developed, and because it is not clear that "further administrative proceedings  
15 would serve no useful purpose," remand for further proceedings is appropriate. *Id.*; *see also*  
16 *Dominguez v. Colvin*, 808 F.3d 403, 407 (9th Cir. 2015) ("A district court may reverse the  
17 decision of the Commissioner of Social Security, with or without remanding the cause for a  
18 rehearing, but the proper course, except in rare circumstances, is to remand to the agency for  
19 additional investigation or explanation.") (internal quotes and citations omitted).

20           Having found that remand is warranted, the Court declines to address Plaintiff's remaining  
21 argument regarding the evaluation of his subjective complaints, which can be addressed, as  
22 necessary, on remand. *See Hiler v. Astrue*, 687 F.3d 1208, 1212 (9th Cir. 2012) ("Because we  
23 remand the case to the ALJ for the reasons stated, we decline to reach [plaintiff's] alternative  
24 ground for remand."); *see also Augustine ex rel. Ramirez v. Astrue*, 536 F.Supp.2d 1147, 1153 n.7  
25 (C.D. Cal. 2008) ("[The] Court need not address the other claims plaintiff raises, none of which  
26 would provide plaintiff with any further relief than granted, and all of which can be addressed on  
27 remand."); *Marcia v. Sullivan*, 900 F.2d 172, 177 n.6 (9th Cir. 1990) ("Because we remand for  
28 reconsideration of step three, we do not reach the other arguments raised.").

## **CONCLUSION AND RECOMMENDATION**

Based on the foregoing, the Court finds that the ALJ's decision is not supported by substantial evidence in the record as a whole and is not based on proper legal standards.

Accordingly, IT IS HEREBY RECOMMENDED as follows:

1. Plaintiff's motion for summary judgment (Doc. 16) be granted.
  2. The Commissioner's request to affirm the agency's decision (Doc. 20) be denied.
  3. The Clerk of the Court be directed to enter judgment in favor of Plaintiff Joel Cordero Flores, and against Defendant Commissioner of Social Security

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within fourteen (14) days** after being served with these Findings and Recommendations, the parties may file written objections with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” **Objections, if any, shall not exceed fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page number if already in the record before the Court. Any pages filed in excess of the 15-page limit may not be considered.** The parties are advised that failure to file objections within the specified time may result in the waiver of the “right to challenge the magistrate’s factual findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **September 5, 2025**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE